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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,817	02/26/2002	Klaus-Josef Daffner	454-010865-US(PAR)	2385
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PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			JEAN GILLES, JUDE	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/085,817	Applicant(s) DAFFNER ET AL.	
	Examiner Jude J. Jean-Gilles	Art Unit 2143	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/12/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Action is in regards to the Reply received on 12/12/2005.

#### ***Response to Amendment***

1. This action is responsive to the application filed on 12/12/2005. Claims 1-19 have been cancelled. Claims 20-36 are newly added. Claims 20-36 are pending. Claims 20-36 represent "an apparatus and process for data communication, in particular for the parameterization and remote monitoring of heating installations".

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-19 have been carefully considered, but are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the following new ground of rejection as explained here below, necessitated by Applicant substantial amendment (i.e., new claims 20-36 added ) to the claims which significantly affected the scope thereof.

In response to Applicant's arguments, 37 CFR § 1.11(c) requires applicant to "clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He or she must show the amendments to avoid such references or objections."

***Information Disclosure Statement***

3. The references listed on the Information Disclosure Statement submitted on 12/12/2005 have been considered by the examiner (see attached PTO-1449A).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 20-36** are rejected under 35 U.S.C. 102(e) as being anticipated by Petite et al. (Petite), Patent No. 6,891,838 B1.

Regarding **claim 20**, Petite discloses an apparatus for the remote monitoring and parameterization of facilities (fig. 3; column 14, lines 48-67; column 15, lines 1-19), in particular heating installations, comprising:

a system unit suited for data transmission according to a first data transmission protocol (fig. 5, item 130; column 17, lines 3-43; note the presence of the TCP/IP protocol)

at least one facility suited for the data transmission according to a second data transmission protocol (fig. 6; fig. 7; column 18, lines 20-67; column 19, lines 1-13; note the presence of the message protocol),

a protocol converter for converting received data (column 15, lines 50-67; column 14, lines 48-67);

a bus system for the data transmission according to the second data transmission protocol, to which the facilities and the protocol converter are connected (fig. 5; note the presence of the TCP/IP bus connecting items 526-530); and

a controllable data transmission device which makes possible the data transmission according to the first data transmission protocol between the system unit and the protocol converter (fig. 4A, item 420);

wherein the protocol converter:

converts data of the first data transmission protocol into data of the second data transmission protocol and data of the second data transmission protocol into data of the first data transmission protocol (column 15, lines 50-67; column 14, lines 48-67);

comprises a memory for storing data (fig. 5, items, 524, and 525);

retrieves predetermined data from the facilities at given time intervals; and

stores the data received from the facilities in a memory (column 17, lines 16-65),

wherein:

after the receipt of the predetermined data or after request by the system unit, the protocol converter:

controls the data transmission device in order to establish a connection to the system unit; transmits the stored data by means of the data transmission device to the

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system unit; and induces the data transmission device to disconnect the connection to the system unit(column 17, lines 16-65; column 18, lines 3-48).

Regarding **claim 21**, Petite discloses an Apparatus according to claim 20, wherein the facilities connectable to the bus system are heating, air conditioning and/or cooling installations and/or measuring or control devices for operating heating, air conditioning and/or cooling installations (fig. 3; column 14, lines 48-67; column 15, lines 1-19).

Regarding **claim 22**, Petite discloses an Apparatus according to claim 20, wherein the bus system is a house field bus and/or the second data transmission protocol is a LON protocol (column 9, lines 34-67).

Regarding **claim 23**, Petite discloses an Apparatus according to claim 20, wherein the first data transmission protocol is a protocol on the basis of the Internet Protocol (IP), in particular the Simple Network Management Protocol SNMP, the Hypertext Transport Protocol http, the Transport Protocol TCP or the LonWorks Network Protocol (fig. 6; fig. 7; column 18, lines 20-67; column 19, lines 1-13; note the presence of the message protocol).

Regarding **claim 24**, Petite discloses an Apparatus according to claim 20, wherein the protocol converter sends data received from the system unit and destined for a certain facility via the bus system to corresponding facility (column 10, lines 53-67; column 11, lines 1-64).

Regarding **claim 25**, Petite discloses an Apparatus according to claim 20, wherein the protocol converter activates a predetermined connection when a trouble report or

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maintenance report is received from one of the facilities (column 10, lines 53-67; column 11, lines 1-64).

Regarding **claim 26**, Petite discloses an Apparatus according to claim 20, wherein the protocol converter sends a predetermined message, in particular a facsimile, a voice message, an e-mail, or an SMS message, when a trouble report or maintenance report is received from one of the facilities and the connection to the system unit is troubled (column 23, lines 32-45).

Regarding **claim 27**, Petite discloses an Apparatus according to claim 20, wherein the connection between the protocol converter and the system unit is established via an analog and/or a digital telephone line and comprises an analog modem, a GSM modem or an ISDN modem (fig. 5, item 528; column 17, lines 3-16).

Regarding **claim 28**, Petite discloses an Apparatus according to claim 27, wherein the connection between the protocol converter and the system unit is established via a call-back procedure (column 16, lines 15-49).

Regarding **claim 29**, Petite discloses an Apparatus according to claim 20, wherein the system unit establishes a connection to the protocol converter at given time intervals and retrieves predetermined data which were previously retrieved from the facilities and buffered by the protocol converter (column 10, lines 53-67; column 11, lines 1-64).

Regarding **claim 30**, Petite discloses an Apparatus according to claim wherein the system unit establishes a connection to the protocol converter and/or sends data for a certain facility the protocol converter and/or receives data of a certain facility from the protocol converter (column 10, lines 53-67; column 11, lines 1-64).

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Regarding **claim 31**, Petite discloses an Apparatus according to claim 20, wherein the system unit comprises a database which contains the configuration, commissioning, maintenance and/or operation data of facilities and/or of the protocol converter, in particular trouble reports and maintenance reports (column 7, lines 39-65; fig. 2, item 170).

Regarding **claim 32**, Petite discloses an Apparatus according to claim 31, wherein the system unit comprises an internet server and/or WAP server for the access to the database (column 7, lines 39-65; fig. 2, item 170).

Regarding **claim 33**, Petite discloses an Apparatus according to claim 20, wherein the system unit sends a predetermined message, in particular a facsimile, a voice message, an e-mail or an SMS message, when a certain trouble report or maintenance report is received from one of the facilities (column 23, lines 32-45).

Regarding **claim 34**, Petite discloses an Apparatus according to claim 20, wherein several system units establish connections to protocol converters and/or receive data from the protocol converters and/or send data to the protocol converters, the system units being connectable to each other via the internet (column 15, lines 50-67; column 14, lines 48-67).

Regarding **claim 35**, Petite discloses an Apparatus according to claim 34, wherein one of the system units comprises a central database to which the other system units report data changes and/or with which the databases of the other system units are collated (column 7, lines 39-65; fig. 2, item 170).



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Regarding **claim 36**, Petite discloses an Method for the remote monitoring and parameterization of facilities, in particular heating installations, comprising:

data transmission according to a first data protocol between a system unit and a protocol transmission converter (fig. 5, item 130; column 17, lines 3-43; note the presence of the TCP/IP protocol)

data transmission according to a second data transmission protocol by at least one facility (fig. 6; fig. 7; column 18, lines 20-67; column 19, lines 1-13; note the presence of the message protocol), conversion of received data by a protocol converter;

data transmission according to second data transmission protocol by a bus system to which the facilities and the protocol converter are connected(fig. 5; note the presence of the TCP/IP bus connecting items 526-530); and

data transmission according to the first data transmission protocol between the system unit and the protocol converter by a controllable data transmission device(column 15, lines 50-67; column 14, lines 48-67);

wherein the protocol converter :

converts data of the first data transmission protocol into data of the second data transmission protocol and data of the second data protocol into data of the first data transmission protocol;

stores data in a memory (fig. 5, items, 524, and 525);

retrieves predetermined data from the facilities at given time intervals;

stores the data received from the facilities in the memory (fig. 5, items, 524, and 525); and

after receipt of the predetermined data or after request by the system unit, the protocol converter:

controls the data transmission device in order to establish a connection to the system unit; transmits the stored data by means of the device to the system unit; and data transmission induces the data transmission device to disconnect the connection to the system unit (column 17, lines 16-65; column 18, lines 3-48).

### ***Response to Arguments***

6. Applicant's Request for Reconsideration filed on 12/12/2005 has been carefully considered but is not deemed fully persuasive. However, because there exists the likelihood of future presentation of this argument, the Examiner thinks that it is prudent to address Applicants' main points of contention.

A. Claims 20-36 are not anticipated by Petite et al. (U.S. Patent No. 6,891,838) under 35 U.S.C. 5102(e). Claim recites a controllable data transmission device which makes possible the data transmission according to the first data transmission protocol between the system unit and the protocol converter. This is not disclosed suggested by Petite et Thus, claims 20-36 cannot be anticipated.

B. Applicant contends that Claims 20-36. For all of the foregoing reasons, is respectfully submitted that all of the claims now present in the application are

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clearly novel and patentable over the prior art of record, and are in proper form for allowance

As to "Point A" it is the position of the Examiner that Petite discloses in detail teaches the limitations of the above mentioned claims. However, in view of Applicant's remarks, simply stating that Petite does teach the limitations of original claims 1-19, without extracting any facts either from the prior art reference, nor from the Office action, or at all to support that statement, the Examiner has no reasonable basis to further his search. Claims 20-36 are anticipated as explained above. The new claims are almost identical to the original claims and

As to "Point B", it is the Examiner's position that Applicant respectfully uses the term "for all the foregoing reasons" while omitting what those reasons are to support his argument. No facts are provided in the response to the First Office Action by the applicant.

Examiner notes with delight that no new matter has been added and that the new claims are supported by the application as filed. However, applicant has failed in presenting claims and drawings that delineate the contours of this invention as compared to the cited prior art. Applicant has failed to clearly point out patentable novelty in view of the state of the art disclosed by the references cited that would overcome the 102(e) anticipation rejection applied against the claims, the rejection is therefore sustained.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-9000.

Jude Jean-Gilles


Patent Examiner

Art Unit 2143

JJG



March 02, 2006



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
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